

CALIFORNIA COASTAL COMMISSION

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APPEAL STAFF REPORT DE NOVO HEARING

Local government.....County of San Luis Obispo

Local decision..... Local Permit # D010172P - Approved with conditions.

Appeal number.....A-3-SLO-02-093

Applicant.....Joe and Marilyn Korpiel

AgentJeffery Lentz

AppellantsCommissioners Sara Wan and Pedro Nava

Project location.....2201 Sherwood Drive, Cambria (APN 023-041-029).

Project description.....Construction of a 3,249 square foot, two-story single family residence.

File documents.....San Luis Obispo County certified Local Coastal Program; Coastal Development Permit D010172P;

Staff recommendation....**Approval with Conditions**

Summary of the Staff Recommendation: The Applicant proposes to construct a two-story, 3,249 square foot single-family residence in the Marine Terrace area of Cambria in San Luis Obispo County. The site is a double, blufftop lot of approximately 6,000 square feet. The County approved the project subject to 11 conditions, finding it consistent with the San Luis Obispo County Local Coastal Program. The Standard of review is the San Luis Obispo County Local Coastal Program. Because the project is located on the bluff between the first public road and the sea, the project must also be found consistent with Coastal Act Chapter 3 Public Access and Recreation policies.

The proposed residential development is included on the list of so-called “pipeline” water projects. In this case, water was obtained for the project by transferring an existing residential water meter from a historic residence located in downtown Cambria. Before the residential transfer was finalized, commercial water service was re-established at the historic downtown location. The result of this transaction is an overall net increase in water demand.

The Commission has previously recognized the serious water supply situation in Cambria and



**California Coastal Commission
May 2003 Meeting in Monterey**

Staff: J.Bishop Approved by:
CCC Meeting Files A-3-SLO-02-093 (Korpiel SFD)

uncertainty still exists with respect to the environmental sustainability of the community's water supply. Most importantly, the burden of the uncertainty in the existing water supply must not be placed on coastal resources. Given the significant outstanding questions regarding the adequacy of the water supply available to serve existing development, the approval of new development that will increase water demand is inconsistent with Public Works Policy 1.

Issues are also raised with respect to the way in which drainage and erosion is to be handled before and after construction. The Applicants propose to control runoff from portions of the project site by linking an underground pipe to a neighboring gunite wall for eventual discharge onto the beach below. This is inconsistent with the protection of coastal water quality. In addition, given uncertainties about the permit history and the location of the adjacent gunite wall, it is not appropriate to use the adjacent revetment to support this development.

The site is located on an eroding coastal bluff top and the proposed dwelling is set back 25' from the top of the bluff. Based on the Geology Report prepared for the project, this set back will be adequate to protect the home from erosion for its economic life of 75 years without the need for a seawall. Accordingly, the project is conditioned to prohibit the construction of a seawall in the future.

Finally, the project must be found consistent with the public access and recreation policies of the California Coastal Act Chapter 3 and the certified LCP. Both the Coastal Act and LCP require that public access and recreational opportunities be maximized and protected through new development. This new development would block an informal accessway (bluff top and bluff face trail) that currently provides public access and recreational opportunities to the beach below.

Staff recommends that the Commission **approve** the proposed development subject to a number of conditions in order to find the project consistent with the LCP and Coastal Act. These conditions include the following requirements:

- Inclusion of a special retrofitting condition that would offset the additional water withdrawals caused by the project;
- Submittal of a drainage plan that incorporates appropriate drainage and erosion control measures;
- Submittal of a revised landscape plan that protects public access;
- Recognition from the project Applicant that approval of this permit does not prejudice future determinations with respect to public access;
- Prohibition against the construction of a future shoreline protective device; and
- Recordation of a deed restriction to place future owners of this property on notice of the requirement of special conditions.

As conditioned, the project will be consistent with the Coastal Act and LCP. Therefore, Staff recommends approval.



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1. Staff Recommendation On Coastal Development Permit

Staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development subject to the standard and special conditions below.

MOTION: I move that the Commission approve Coastal Development Permit Number A-3-SLO-02-093 pursuant to the staff recommendation.

STAFF RECOMMENDATION OF APPROVAL: Staff recommends a **YES** vote. Passage of this motion will result in approval of the coastal development permit as conditioned and adoption of the following resolution and findings. The motion passes only by an affirmative vote by a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT: The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the Public Access and Recreation policies of Chapter 3 of the Coastal Act and the San Luis Obispo County certified LCP. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

2. Conditions of Approval

A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.



B. Special Conditions

1. **Scope of Permit.** The development authorized by this permit is limited to construction of the following, subject to Executive Director review and approval of final plans and compliance with all conditions of this permit.

- a. 3,249 square foot, two-story single-family residence with: 2,127 square feet of footprint (including 456 square feet of TDC's), and a maximum height of 15 feet (measured from the centerline of the fronting street); landscaping; and drainage/erosion control measures.

2. **No Net Increase in Water Use Allowed.** PRIOR TO ISSUANCE OF THE PERMIT, the applicant shall submit, for Executive Director review and approval, evidence that the anticipated water use of this development has been completely offset through the retrofit of existing water fixtures within the Cambria Community Service District's service area or other verifiable action to reduce existing water use in the service area (e.g., replacement of irrigated landscaping with xeriscaping). The documentation submitted to the Executive Director shall include written evidence that the Cambria Community Service District (CCSD) has determined that the applicant has complied with CCSD Ordinance 1-98, as approved by the CCSD Board of Directors on January 26, 1998 (attached as Exhibit 6), and further modified by CCSD Board approval on November 14, 2002 (CCSD board item VIII.B attached as Exhibit 7), subject to the limitation that no retrofit credits shall have been obtained by any of the following means: a) extinguishing agricultural water use, or b) funding leak detection programs. Evidence of compliance with CCSD Ordinance 1-98 shall be accompanied by written confirmation from the CCSD that any in-lieu fees collected from the applicant have been used to implement projects that have reduced existing water use within the service area in an amount equal or greater to the anticipated water use of the project.

3. **Drainage, and Erosion Control Plans.** PRIOR TO ISSUANCE OF THE PERMIT, the applicant shall submit, for Executive Director review and approval, a drainage and erosion control plan that incorporates the following provisions:

Implementation of Best Management Practices During Construction. The Drainage and Erosion Control Plans shall identify the type and location of the measures that will be implemented during construction to prevent erosion, sedimentation, and the discharge of pollutants during construction. These measures shall be selected and designed in accordance with the California Storm Water Best Management Practices Handbook and the criteria established by the San Luis Obispo County Resource Conservation District. Among these measures, the plans shall limit the extent of land disturbance to the minimum amount necessary to construct the project; designate areas for the staging of construction equipment and materials, including receptacles and temporary stockpiles of graded materials, which shall be covered on a daily basis; provide for the installation of silt fences, temporary detention basins, and/or other controls to intercept, filter, and remove sediments contained in the runoff from construction, staging, and storage/stockpile areas; and provide for the hydro seeding of disturbed areas immediately upon conclusion of construction activities in that area. The plans shall also incorporate good construction housekeeping measures, including the use of dry cleanup measures whenever possible; collecting and filtering cleanup water when dry cleanup



methods are not feasible; cleaning and refueling construction equipment at designated off site maintenance areas; any the immediate clean-up of any leaks or spills.

The plans shall indicate that PRIOR TO THE COMMENCEMENT OF GRADING, the applicant shall delineate that the approved construction areas with fencing and markers to prevent land-disturbing activities from taking place outside of these areas.

Post Construction Drainage. All runoff from impervious surfaces such as roofs, driveways, walks, patios, decks, etc., shall be collected conveyed to the storm drain system on Sherwood Drive. No drainage shall be directed to the bluff or beach area. The drainage plan shall identify the specific type, design, and location of all drainage infrastructure necessary to ensure that post construction drainage from the project does not result in erosion, sedimentation, or the degradation of coastal water quality. The capacity of filtration and treatment features shall be adequate to effectively remove sediments and pollutants during an 85th percentile runoff event. In areas where rocks or other energy dissipation structure are needed, the drainage plan shall include detailed plans that limit the size and footprint of such structure to the minimum necessary to achieve effective erosion control. The applicant shall be responsible for implementing and maintaining drainage and erosion control measures and facilities for the life of the project. This shall include performing annual inspections, and conducting all necessary clean-outs, immediately prior to the rainy season (beginning October 15), and as otherwise necessary to maintain the proper functioning of the approved drainage system.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

- 4. Public Rights.** By acceptance of this permit, the applicant acknowledges, on behalf of him/herself and his/her successors in interest, that issuance of the permit shall not constitute a waiver of any public rights that may exist on the property. By accepting the permit, the applicant also acknowledges that issuance of the permit and construction of the permitted development shall not be used or construed to interfere with any public prescriptive or public trust rights that may exist on the property.
- 5. Revised Landscape Plan.** PRIOR TO ISSUANCE OF THE PERMIT, the applicant shall submit, for Executive Director review and approval, a revised landscape plan that clearly demarcates two landscaping zones, Zone A and Zone B, in conformance with Exhibit 7 of this report. Zone A is defined as the area between the 25-foot setback line and a line 8 feet inland from the top of the bluff. Zone B is defined as the area seaward of the 8-foot line. The Revised Landscape Plan shall incorporate the following design criteria:



▪ **Zone A** –

- a) **Fencing / Walls**– Fencing shall not exceed 3 feet in height and shall be of a split rail design (or other design that protects visual resources and is approved by the Executive Director). Solid walls or fences in Zone A are prohibited.
- b) **Vegetation** – Vegetation shall be selected and maintained to not exceed 3 feet in height, and to protect views of the ocean and shoreline available to the public from the Emmons Street right of way. Vegetation along the southern property boundary shall be trimmed and maintained to avoid encroachment into or over the Emmons Road street end.
- c) **Drainage Berm** – The drainage berm, as shown on the submitted landscape plan, shall be set back a minimum of 8 feet from the top of bluff. The drainage berm shall not exceed 12 inches in height. If the drainage berm is to be vegetated, vegetation shall be no taller in stature than low-lying ground cover not to exceed 3 feet in height.
- d) **Signs** – Signs that restrict beach access, or give the impression of restricted beach access (e.g. “No Trespassing” signs) posted on the applicant’s property along the Emmons Road street end accessway are prohibited.

- **Zone B** – All landscaping elements or any other development that may interfere with existing public access (e.g. fences, walls, drainage berms or swales, plantings, signs, slab, stone, etc.) are prohibited in Zone B.

- **All landscaping** shall use drip irrigation and drought tolerant vegetation. Invasive non-native (e.g., ice plant and Pampas Grass) and water intensive (e.g. turf grass) landscaping shall be prohibited on the entire site.

- **All landscaping or fencing** adjacent to the Emmons Road street end accessway boundary shall be located entirely within the Korpiel property line.

6. No Future Bluff or Shoreline Protective Device.

A (1) By acceptance of this Permit, the applicant agrees, on behalf of itself (or himself or herself, as applicable) and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. A-3-SLO-02-093 including, but not limited to, the residence, foundations, decks, driveways, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future. By acceptance of this Permit, the applicant hereby waives, on behalf of itself (or himself or herself, as applicable) and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

A (2) By acceptance of this Permit, the applicant further agrees, on behalf of itself (or himself or herself, as applicable) and all successors and assigns, that the landowner shall remove the development authorized by this Permit, including the residence, foundations, patios, walkways,



landscaping, and drainage improvements, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

7. County Conditions. Except for Conditions 2, 4, and 7 all conditions of San Luis Obispo County's approval of the Project become conditions of this permit. All conditions of San Luis Obispo County's approval pursuant to planning authority other than the Coastal Act continue to apply.

8. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the applicant's entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

Recommended Findings and Declarations

The Commission finds and declares as follows:

3. Project Background

The San Luis Obispo County Zoning Administrator approved the proposed project on October 4, 2002. Coastal Commissioners Sara Wan and Pedro Nava appealed this action to the Commission on November 12, 2002. On January 8, 2002 in Los Angeles, the Commission held a substantial issue hearing on the project and found that the appeal raised a substantial issue in terms of the projects consistency with the San Luis Obispo County LCP. As a result, the Commission took jurisdiction over the coastal development permit (CDP) for the project. On March 6, 2003 the Applicants exercised their one-time right to postponement under Title 14, Division 5.5, Article 12, Section 13073, of the California Code of Regulations.



4. Project Description

The proposed residence consists of the garage and living space on two levels, with a blufftop setback of 25 feet. The County approval authorizes the construction of a new single-family residence with 2,127 square feet of footprint, 3,249 square feet of gross structural area, including 456 square feet of transfer development credits (TDC's). The overall height of the proposed residence is 15 feet, as measured from the centerline of the fronting street (Sherwood Drive).

The site of the proposed project is a 6,109 square foot lot on the seaward side of Sherwood Drive in the Marine Terrace neighborhood of Cambria in San Luis Obispo County (see Exhibit 2). The elevation of the lot is comparable to that of the adjoining lots. The blufftop is approximately 17 feet in height at this location. In most areas, the bluff face drops off steeply to the rocky beaches below. At the base of the bluff adjacent to the site, however, there is a small pocket beach with numerous large rock outcroppings. Gunite walls protect the existing house to the north, as well as the house directly to the south.

The project site is adjacent to the Emmons Road street end. As shown on the parcel map (Exhibit 3), the Emmons Road street end runs along the flat marine terrace, down the bluff face and to the mean high tide line. It is a public road created as part of the original subdivision but has never been improved. This county owned right-of-way provides access from Sherwood Drive only to a point on the bluff edge, as a steep bluff face prevents direct vertical public access to shoreline below. To obtain access to the shoreline, the public uses a steep dirt path that traverses down the bluff face and is partly located on the applicant's property.

5. Coastal Development Permit Determination

A. Public Services

1. Relevant Local Coastal Program Provisions

As required by Public Works Policy 1, all new development must demonstrate that there is sufficient water supply to serve the development:

Public Works Policy 1: Availability of Service Capacity

New development (including divisions of land) shall demonstrate that adequate public or private service capacities are available to serve the proposed development. Priority shall be given to infilling within existing subdivided areas. Prior to permitting all new development, a finding shall be made that there are sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban service line for which services will be needed consistent with the Resource Management System where applicable...



This policy is implemented by CZLUO 23.04.430:

CZLUO Section 23.04.430 - Availability of Water Supply and Sewage Disposal Services

A land use permit for new development that requires water or disposal of sewage shall not be approved unless the applicable approval body determines that there is adequate water and sewage disposal capacity available to serve the proposed development, as provided by this section . . .

In addition to these urban service policies, water supply for new development in Cambria must also be considered in light of LCP priorities for Agriculture and Visitor-serving development.

Agriculture Policy 7: Water Supplies

Water extractions consistent with habitat protection requirements shall give highest priority to preserving available supplies for existing or expanded agricultural uses. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Recreation & Visitor-Serving Facilities Policy 2: Priority for Visitor-Serving Facilities.

Recreational development and commercial visitor-serving facilities shall have priority over non-coastal dependent use, but not over agriculture or coastal dependent industry in accordance with PRC 30222. All uses shall be consistent with protection of significant coastal resources... [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Finally, The North Coast Area Plan component of the LCP contains a development standard for the Cambria Urban Area that requires:

Reservation of Service Capacity. *To allow for continued growth of visitor-serving facilities, 20% of the water and sewer capacity shall be reserved for visitor-serving and commercial uses.*

2. Consistency Analysis

Since passage of the Coastal Act, the Commission has recognized that Cambria's limited water supplies place a serious constraint on the buildout of this community. Concerns regarding the adequacy and reliability of Cambria's water supplies have been coupled with concerns that excessive withdrawals from San Simeon and Santa Rosa creeks will have significant adverse impacts on environmentally sensitive habitat areas. These concerns are detailed in the Commission's review of the North Coast Area Plan Update proposed by the County in 1997, and in the Periodic Review of the San Luis Obispo County LCP adopted by the Commission in July 2001 (available in project file for reference). This analysis is incorporated by reference into these findings.

Recent events have reaffirmed the tenuous situation of Cambria's water supply. On October 25, 2001 the CCSD Board of Directors considered whether to pursue the declaration of a water shortage emergency. At that meeting, the Board of Directors determined that sufficient evidence existed to consider the declaration of a water shortage emergency based on an inability to accommodate the



anticipated growth of the community in the near future. At this same meeting the Board voted to approve thirty-eight (38) intent-to-serve letters.

On November 15, 2001 the CCSD Board of Directors declared a water emergency. Part of this action included not allowing any additional intent-to-serve letters to be issued (i.e. anything beyond those that were issued during the October 25, 2001 meeting). The following list includes additional actions adopted by the CCSD to accompany the declaration of a water emergency:

- Reactivate the retro-fit program as contained in the CCSD Ordinances 1-98, 2-98, and 2-99;
- Investigate additional opportunities to implement water saving measures through the retro-fit program;
- Enforce Ordinance 4-2000 (water waste provision);
- Identify any additional opportunities to improve Ordinance 4-2000;
- Request that the County of San Luis Obispo adopt restrictions on the installation of landscaping within the Cambria CSD to minimize the impact of irrigation on water supplies;
- Develop a plan to ensure the enforcement of all restrictions and regulations regarding water usage in Cambria;
- Pursue the development of water master plan;
- Evaluate the current rate structure and develop changes and improvements.

Through the declaration of a moratorium on new water connections, the CCSD has taken a critical step in curbing short-term development potential in Cambria. Since October 25, 2001 no new intent-to-serve letters have been issued by the CCSD. This action, in turn, has generally limited County approval of coastal development permits in Cambria to those projects that obtained a commitment of water services prior to November 15, 2002.

As of August 21, 2002, the CCSD has indicated that there were a number of “intent-to-serve” letters currently outstanding from the CCSD that have yet to complete the County permit process. These outstanding commitments include both residential and commercial development totaling 102 “Equivalent Dwelling Units” (EDU’s), or, according to CCSD calculation, approximately 9,000 gallons of water per day. The total average current daily water production by the CCSD equals 720,000 gallons of water. Accordingly, based on CCSD’s figures, the water use attributable to these outstanding intent-to-serve letters represent an approximate 1.25% increase in total water supplies needed to serve these outstanding commitments.

In addition to outstanding intent-to-serve letters, there are an additional 45.7 inactive “grandfathered” EDU allocations, 13 single-family active meters in place, but not activated, and 27 connection permits that are being issued for recently processed building permits. Thus, the potential increase in water use associated with the full range of “pipeline projects” appears to be significantly greater than the 9,000 gallons per day estimated above.



In terms of this coastal development permit analysis, the cumulative increase in water use associated with pipeline projects, and the significant outstanding concerns regarding the adequacy of water supplies raise issues regarding compliance with LCP Public Works Policy 1, which requires that:

prior to permitting all new development, a finding shall be made that there are sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban service line for which services will be needed

The main difference between this “pipeline” project and others already heard by the Commission is the way in which water service was obtained. To date, water projects reviewed by the Commission have possessed intent-to-serve letters from the CCSD. In this case, domestic water for the project (1 EDU) was obtained by transferring a previously existing residential water service from another location (4009 West St.), where a residential use was replaced with a commercial use (.43 EDU). Contrary to Public Works Policy 1, and as described above, it is unclear that there is adequate water available to serve both the proposed development and other outstanding commitments, and at the same time comply with LCP standards protecting ESHA. Accordingly, new development that will place additional demands on Cambria’s limited water supplies cannot be approved consistent with the requirements of LCP Public Works Policy 1.

In order to resolve this issue, the Coastal commission, in coordination with the CCSD and the County, has developed an interim approach for “pipeline ” projects that would allow these projects to move forward in the development process without creating additional water withdrawals. The approach involves the existing retrofit program of the CCSD, described below. Through the retrofit program, the replacement of old plumbing fixtures with lower use modern ones would allow Cambria’s finite water supply to be stretched. By doing so, existing water supplies are used more efficiently, resulting in water savings that can be used for the new “pipeline projects.” To implement this approach, the conditions of this permit allow the proposed development to be constructed only if its anticipated water use is completely offset through the implementation of verifiable water conserving actions, such as by replacing existing water fixtures with water conserving fixtures, and/or replacing irrigated landscapes with landscaping that requires little to no water.

Regardless of how the water savings is achieved (e.g. by actual retrofitting or retirement of existing water use), it is important to note that the success of this condition is limited by the finite number of non-retrofitted homes, businesses, and other un-retrofitted facilities remaining in the community; there must be an adequate amount of water saving opportunities available to offset the additional water use attributable to the pipeline projects. According to the CCSD there are adequate water savings opportunities currently available to achieve this objective.

It is also important to note that the CCSD already has a retrofit program in place, which allows property owners to purchase retrofit “points”. The CCSD banks these funds for future use towards water conservation projects. This approach, though, does not provide adequate guarantees that retrofits will be completed in a timely fashion, or adequately compensate for the additional water use attributable to the proposed development. Therefore, the conditions of this permit specify that the water conserving actions required to offset the increase in water demand associated with the pipeline projects must be



completed before the coastal development permit is issued. The terms of this condition also call for the CCSD to participate in reviewing the adequacy of the proposed water savings actions, and in ensuring that the necessary water saving actions are effectively implemented and maintained.

In addition to Public Works Policy 1, water supply for new development in Cambria must also be considered in light of LCP priorities for Agriculture and Visitor-serving development. In this situation, however, it does not appear that these priority use policies are relevant because there is no reserve capacity currently available. Only in the event that there was available capacity (which there is not), at least 20% would need to be reserved for visitor-serving and commercial uses.

3. Public Services Conclusion

By prohibiting a net increase in water use (see Special Condition 2), the project will not result in additional withdrawals and will thereby avoid adverse impacts to coastal resources. Only with this condition can the Commission approve the project consistent with the Public Works policies of the LCP, on the basis that the project will not place any new demands on public water supplies.

B. Environmentally Sensitive Habitat Area (ESHA)

The following LCP Policies for Environmentally Sensitive Habitats apply:

1. Relevant Local Coastal Program Provisions

Policy 1: Land Uses Within or Adjacent to Environmentally Sensitive Habitats

New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resources shall be allowed in the area [THIS POLICY SHALL BE IMPLEMENTED PUSUANT TO SECTIONS 23.07.170-178 OF THE COASTAL ZONE LAND USE ORDINANCE (CZLUO).]

Policy 2: Permit Requirement

As a condition of permit approval, the applicant is required to demonstrate that there will be no significant impact on sensitive habitats and that proposed development or activities will be consistent with the biological continuance of the habitat. This shall include an evaluation of the site prepared by a qualified professional which provides: a) the maximum feasible mitigation measures (where appropriate), and b) a program for monitoring and evaluating the effectiveness of mitigation measures where appropriate. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-178 OF THE CZLUO].

Policy 5: Protection of Environmentally Sensitive Habitats

Coastal wetlands are recognized as environmentally sensitive habitat areas. The natural ecological functioning and productivity of wetlands and estuaries shall be protected, preserved and where feasible, restored. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-178 OF THE CZLUO].



Policy 18: Coastal Streams and Riparian Vegetation

Coastal streams and adjoining riparian vegetation are environmentally sensitive habitat areas and the natural hydrological system and ecological function of coastal streams shall be protected and preserved. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.07.174.]

Policy 21: County and State Review of Coastal Stream Projects

The State Water Resources Control Board and the county shall ensure that the beneficial use of coastal stream waters is protected, for projects over which it has jurisdiction. For projects which do not fall under the review of the State Water Resources Control Board, the county (in its review of public works and stream alteration) shall ensure that the quantity and quality surface water discharge from streams and rivers shall be maintained at levels necessary to sustain the functional capacity of streams, wetlands, estuaries and lakes. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PUSUANT TO SECTION 23.07.174 OF THE CZLUO.]

Other applicable standards include Policies 1 and 2 for Watersheds:

Policy 1: Preservation of Groundwater Basin

The long-term integrity of groundwater basins within the coastal zone shall be protected. The safe yield of the groundwater basin, including return and retained water, shall not be exceeded except as part of a conjunctive use or resource management program which assures that the biological productivity of aquatic habitats are not significantly adversely impacted. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Policy 2: Water Extractions

Extractions, impoundments and other water resource developments shall obtain all necessary county and/or state permits. All pertinent information on these uses (including water conservation opportunities and impacts on in-stream beneficial uses) will be incorporated into the database for the Resource Management System and shall be supplemented by all available private and public water resources studies available. Groundwater levels and surface flows shall be maintained to ensure that the quality of coastal waters, wetlands and streams is sufficient to provide for the optimum populations of marine organisms, and for the protection of human health. (Public works projects are discussed separately.) [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

In addition, the following portions of CZLUO ordinances are applicable to the proposed project:

Section 23.07.164 – SRA Permit and Processing Requirements:

The land use permit requirements established by Chapters 23.03 (Permit Requirements), and 23.08 (Special Uses), are modified for the SRA combining designation as follows:

*....(e) **Required Findings:** Any land use permit application within a Sensitive Resource Area shall be approved only where the Review Authority can make the following required findings:*



- (1) *The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the site design.*
- (2) *Natural features and topography have been considered in the design and siting of all proposed physical improvements.*
- (3) *Any proposed clearing of topsoil, trees, or other features is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource.*
- (4) *The soil and subsoil conditions are suitable for any proposed excavation; site preparation and drainage improvements have been designed to prevent soil erosion, and sedimentation of streams through undue surface runoff.*

Section 23.07.170 – Environmentally Sensitive Habitats:

The provisions of this section apply to development proposed within or adjacent to (within 100 feet of the boundary of) an Environmentally Sensitive Habitat as defined by Chapter 23.11 of this title, and as mapped by the Land Use Element combining designation maps.

... (b) Required findings: *Approval of a land use permit for a project within or adjacent to an Environmentally Sensitive Habitat shall not occur unless the applicable review body first finds that:*

- (1) *There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat.*
- (2) *The proposed use will not significantly disrupt the habitat.*

... (d) Development standards for environmentally sensitive habitats:

- (1) *New development within or adjacent to the habitat shall not significantly disrupt the resource.*
- (2) *New development within the habitat shall be limited to those uses that are dependent upon the resource.*
- (3) *Where feasible, damaged habitats shall be restored as a condition of development approval.*
- (4) *Development shall be consistent with the biological continuance of the habitat.*
- (5) *Grading adjacent to Environmentally Sensitive Habitats shall conform to the provisions of Section 23.05.034c (Grading Standards.)*

2. Consistency Analysis

Heightened water withdrawals needed to serve the project may significantly disrupt environmentally sensitive habitat areas inconsistent with the protections established for such areas by the LCP. Inconsistent with ESHA Policies 1, 2, 5, 18 and 21, as well as Coastal Watershed Policies 1 and 2, the amount of water needed to support existing and future development in Cambria may adversely impact



sensitive instream, riparian, and wetland habitats supporting rare and important species such as Steelhead trout, Tidewater Goby, Southwestern pond turtle, and California Red Legged Frog.

Steelhead Streams

The Cambria Community Services District's water is supplied from wells that extract the underflow of San Simeon and Santa Rosa Creeks. Both creeks are known to support steelhead trout. The California Department of Fish and Game lists these creeks as important steelhead habitats. However, as discussed in the Public Works Findings, and inconsistent with ESHA and Watershed Policies, the anticipated levels of water withdrawal from both urban and agricultural users may deplete surface and groundwater flows needed for healthy steelhead spawning habitat. The amount of water flow needed to support this species can be determined through in-stream flow studies. The need for these studies was discussed at length in both the 1998 North Coast Update and the 2001 periodic Review. To date, these studies have not been completed. Although the CCSD annually monitors steelhead populations within the creeks, these monitoring activities have not provided the data and analyses needed to evaluate the impacts that water withdrawals may be having on the biological productivity and continuance of these sensitive habitat areas.

Riparian and Wetland Habitat

The protection of riparian and wetland habitat depends on a reliable and sustainable water supply. San Simeon and Santa Rosa Creeks support rare and important species such as Tidewater Goby, Southwestern pond turtle, and California Red Legged Frog. Both of these streams form at least a seasonal lagoon/wetland area in the late spring season. As discussed previously, the heightened levels of water withdrawals needed to serve the "pipeline projects" may deplete surface and groundwater flows. Inconsistent with ESHA and Watershed Policies, new development may reduce the sustainable level and quality of water flowing in these coastal creeks and in turn may have adverse impacts to sensitive riparian and wetland habitat. Again, the amount of water flow needed to support lagoon habitats and the sensitive species that rely on these habitats needs to be determined through in-stream flow studies that have yet to be completed.

3. ESHA Conclusion

LCP ESHA policies require that impacts to ESHA be avoided, and that development not significantly disrupt ESHA resources. New water withdrawals from San Simeon and Santa Rosa creeks may have adverse impacts to ESHA resources. As such, the Commission finds that the project, as proposed, is not consistent with the LCP's ESHA policies cited in this finding.

In order to find the project consistent with the ESHA policies, the project has been conditioned to avoid the creation of additional demands on Cambria's limited water supplies. This is necessary to avoid the significant impacts to sensitive riparian and wetland habitat that would accompany additional withdrawals from San Simeon and Santa Rosa creeks, particularly in sequential drought years. Only with Special Condition 2 can the Commission approve the project consistent to the ESHA policies contained in the certified San Luis Obispo County LCP.



C. Drainage and Erosion Control

1. Relevant Local Coastal Program Provisions

Coastal Watershed Policy 8: Timing of Construction and Grading

Land clearing and grading shall be avoided during the rainy season if there is a potential for serious erosion and sedimentation problems. All slope and erosion control measures should be in place before the start of the rainy season. Soil exposure should be kept to the smallest area and the shortest feasible period. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PUSUANT TO SECTION 23.05.036 OF THE CZLUO.]

Coastal Watersheds Policy 9: Techniques for Minimizing Sedimentation

Appropriate control measures (such as sediment basins, terracing, hydro-mulching, etc.) shall be used to minimize erosion and sedimentation. Measures should be used from the start of site preparation. Selection of appropriate control measures shall be based on evaluation of the development's design, site conditions, predevelopment erosion rates, environmental sensitivity of the adjacent areas and also consider costs of on-going maintenance. A site specific erosion control plan shall be prepared by a qualified soil scientist or other qualified professional. To the extent feasible, non-structural erosion techniques, including the use of native species of plants, shall be preferred to control run-off and reduce increased sedimentation. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PUSUANT TO SECTION 23.05.036 OF THE CZLUO.]

Coastal Watersheds Policy 10: Drainage Provision

Site design shall ensure THAT drainage does not increase erosion. This may be achieved either through on-site drainage retention, or conveyance to storm drains or suitable watercourses. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PUSUANT TO SECTION 23.05.034 OF THE CZLUO.]

North Coast Area Plan – Single Family Residential (Lodge Hill) Standards

8. Site Development Standards. *New development shall satisfy the following standards:*

- a. Erosion Control.** *In addition to other applicable requirements of the Coastal Zone Land Use Ordinance, the following shall also be met:*
 - (1) All runoff from impervious surfaces such as roofs, driveways, walks, patios, decks, shall be collected and detained on-site, or passed on through an effective erosion control device or drainage system approved by the County Engineer.*
 - (2) Permanent erosion control devices shall be installed prior to or concurrently with on-site grading activities.*
 - (3) If grading is to occur between October 15 to April 15, a sedimentation and erosion control plan shall be submitted per Coastal Zone Land Use Ordinance Section 23.05.036.*



- (4) *Grading, filling or site disturbance of existing soil and vegetation shall be limited to the minimum areas necessary.*
- (5) *Stockpiles and other disturbed soil shall be protected from rain and erosion by plastic sheets or other covering.*
- (6) *All areas disturbed by grading shall be revegetated with temporary or permanent erosion control devices in place.*
- (7) *Impervious surfaces such as driveways and walkways shall be limited to the smallest functional size.*
- (8) *Exterior decks shall be located to avoid trees. Solid exterior decks shall be limited to 10% of the permitted footprint, while decks of permeable construction (i.e., open wood slats) shall be limited to 30% of permitted footprint.*

In addition to specific LCP drainage provisions, the following policies also apply:

Coastal Hazards Policy2: *New development shall ensure structural stability while not creating or contributing to erosion or geological instability.*

Visual and Scenic Resource Policy 10: Development on Coastal Bluffs. *New development on bluff faces shall be limited to public access stairways and shoreline protection structures. Permitted development shall be sited and designed to be compatible with the natural features of the landform as much as feasible. New development on bluff tops shall be designed and sited to minimize visual intrusion on sandy beaches. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD].*

2. Consistency Analysis

To address non-point source pollution from urban development, LCP policies focus on controlling erosion and sedimentation, on managing drainage patterns to reduce erosion and runoff, and on siting development off steeper slopes (Watershed Policies 8, 9, and 10). The County implements these goals by requiring sedimentation or erosion control plans and/or drainage plans (CZLUO Section 23.05.036 and Section 23.05.040). The North Coast Area Plan has additional requirements for development in the Lodge Hill area of Cambria. These include 1) runoff from impervious surfaces must be collected and detained on-site or passed through an erosion control system approved by the county engineer; 2) projects must include permanent erosion control devices; 3) a sedimentation/erosion control plan is required if grading occurs between Oct.15-April 15; 4) construction activities must minimize fill and site disturbance; 5) disturbed soils and stockpiles must be protected from rain and erosion; 6) areas disturbed by construction must be revegetated; 7) development must minimize impervious surfaces to the smallest functional use; and 8) exterior decks shall avoid tree removal, and solid decking is limited to 10% of the permitted footprint, while permeable construction is limited to 30% of the permitted footprint.

In addition, the LCP has standards to ensure that development on bluffs does not create or contribute to erosion (Hazards Policy 2), and requires new development on bluff faces (i.e. drainage pipes and splash blocks) to minimize visual intrusion on sandy beaches (Visual and Scenic Resource Policy 10).



The project site is currently vacant with native grasses sloping gradually from Sherwood Drive to the bluff. According to the geologic report, the site drops about six feet over 105 feet of distance. As proposed, grading or removal of ground cover for the residence will involve less than 50 cubic yards of soil. The total footprint of the residence will affect approximately 2,127 square feet of the parcel. Based on the landscape plans submitted it appears that the site disturbance will be greater through the use of impermeable concrete slab and stone for porches, driveways, walkways etc. According to the Negative Declaration prepared September 6, 2002, soil characteristics of the site are described as very poorly drained with moderate erodibility and low to high shrink-swell potential.

The proposed development will significantly alter the natural drainage features of the site. The applicant proposes to control property drainage by the establishment of a 12" high berm near the top edge of the bluff. The berm will serve to direct drainage to a catch basin and convey water through a 6" drain line tied into a gunite wall on the adjacent parcel to the north. Roof runoff from the proposed residence will be directed to the fronting street (and possible onsite cistern), with the exception of a small amount of water anticipated from a deck on the roof. The applicant proposes to convey this water through a 6' PVC drain that would also tie into the neighboring gunite wall. All drainage lines connected to the gunite wall would be discharged onto a splash block at termination on the beach below (see Exhibit 2 – Site Plan).

The drainage scheme proposed raises a number of concerns. First, the permit history of the gunite wall on the adjacent property is unknown. Research into County and CCC records has not revealed whether this development was appropriately permitted. Second, the applicant does not appear to own the gunite wall and the adjacent property owner is not currently a co-applicant for this permit. Third, the discharge of drainage onto the beach has the potential to exacerbate erosion of the beach and adjacent properties. Finally, the proposed drainage system would necessitate the installation of a splash block on the beach.

The project has the potential to have adverse impacts through the proposed alteration of natural drainage patterns, and contributing sediments and pollutants to coastal waters. New development on these blufftop lots can adversely impact coastal water quality by discharging debris and pollutants into watercourses, and by causing erosion and sedimentation through the removal of vegetation and the movement of dirt. The increase in impervious surfaces that will result from the project will also impact coastal water quality by altering natural drainage patterns and providing areas where for the accumulation of pollutants that will eventually be carried into coastal waters by storm water. Inconsistent with LCP drainage, hazard, and visual resource policies, the placement of drain pipes through the bluff face that terminate on the beach have the potential to destabilize the bluff, exacerbate erosion in these locations, as well as mar the aesthetics of the beach with unnecessary infrastructure.

3. Drainage and Erosion Control Conclusion

Given the set of circumstances described above, it is important that onsite drainage be directed away from the blufftop to minimize the potential for increased erosion of the bluff. It is also important that storm flows be directed to a storm drains where available. In this case, conveying site drainage to Sherwood Drive is most appropriate. Condition 3, therefore, requires that the applicant submit a final drainage and erosion control plan to ensure that proper measures are taken to collect and direct rainwater and surface runoff to appropriate stormwater drains, without impacting adjoining properties, the bluff, or



the beach. In addition, specific landscaping criteria have been implemented to avoid bluff destabilization, minimize intensive water use on blufftop areas, and avoid excessive runoff and erosion (Special Condition 5).

With these conditions, the project complies with all applicable LCP drainage and water quality protection provisions. As such, and only as conditioned, the Commission approves the project and finds it consistent with the San Luis Obispo Certified LCP.

D. Public Access and Recreation

1. Coastal Act and LCP Public Access and Recreation Policies

Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211.

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212.

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- (1) It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,*
- (2) Adequate access exists nearby, or,*
- (3) Agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway...*

The following LCP policies and ordinances also apply:

Access Policy1: Protection of Existing Access. *Public prescriptive rights may exist in certain areas of the county. Development shall not interfere with the public's right of access to the sea where acquired through historic use or legislative authorization. These rights shall be protected through public acquisition measures or through permit conditions which incorporate access measures into new development. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.04.420 OF THE CZLUO.]*

Access Policy 2: New Development. *Maximum public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development. Exceptions may occur where (1) it*



is inconsistent with public safety, military security needs, or the protection of fragile coastal resources; (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Such access can be lateral and/or vertical. Lateral access is defined as those accessways that provide for public access and use along the shoreline. Vertical access is defined as those accessways which extend to the shore, or perpendicular to the shore in order to provide access from the first public road to the shoreline. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.420 (a) AND (c) OF THE CZLUO].

CZLUO Section 23.04.420(b): Protection of existing coastal access. *Development shall not interfere with the public's right of access to the sea where acquired through historic use or legislative authorization. Public access rights may include but are not limited to the use of dry sand and rocky beaches to the first line of terrestrial vegetation.*

2. Consistency Analysis

The marine terrace area of Lodge Hill provides numerous public access opportunities, including a variety of formal and informal accessways to the beach and shoreline. As opposed to vast sandy beaches in some areas that allow unimpeded lateral access along the shoreline, this area is characterized by small pocket beaches and coves that are often separated by large rock outcroppings. In some areas, these outcroppings extend from the bluff into the nearshore surf zone. In Cambria, informal accessways, such as street ends and bluff trails leading to the shoreline, provide public access and passive recreational opportunities to these rocky beach areas (see photos in Exhibit 5). Activities include, walking, fishing, tidepooling, collecting shells/driftwood, sunbathing, photography, painting, surfing, watching sunsets, etc. These activities depend on the public's ability to access the shoreline.

The beaches along the Marine Terrace are small and seasonal, with some access provided in the form of stairways at the street ends. The project site is adjacent to the Emmons Road street end. As shown on the parcel map (see Exhibit 3), the Emmons Road street end runs along the flat bluff terrace, down the bluff face and to the mean high tide line. Emmons street end is a public road created as part of the original subdivision but has never been improved. As can be seen in the photographs attached as Exhibit 5, the public uses various informal dirt trails that cross the Korpiel property to gain access to the bluff edge and the beach below. The proposed project would result in the removal of these trails.

The Coastal Act requires that maximum public access be provided through new development, consistent with public safety and the need to protect private property owners' rights and natural resource areas from overuse (30210). The Coastal Act further requires that new development not interfere with the public's right of access to the sea, whether acquired through use or legislative action, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation (Section 30211). Section 30212 requires new development to provide public access.

Access Policy 2 of the LCP requires that vertical and lateral access be provided in new development. Exceptions are allowed in cases where 1) access is inconsistent with public safety, military security needs, or protection of fragile resources; 2) adequate access exists nearby; or 3) agriculture would be



adversely affected. The LCP defines “adequate access” where vertical access exists within one-quarter mile in urban areas, and one mile in rural areas. These requirements are implemented through LCP Ordinance 23.04.420. In many instances the implementing ordinances of the CZLUO repeat the Coastal Act language verbatim. Together, all of these policies strive for the maximization of public access through new development and the protection of existing access and recreational opportunities.

The County conditioned the project to record an offer to dedicate (OTD) lateral access from the toe of the bluff to the mean high tide line. However, a review of the parcel lines shown on the site plan indicates that the applicant does not have ownership of the area required for dedication (see Exhibit 1). Therefore, the required dedication would enhance lateral public access opportunities only in the event that the existing toe of the bluff retreats to within the applicant’s property. This requirement does not effectively maximize coastal access and recreation as required by the LCP and Coastal Act because it does not effectively protect existing access opportunities.

Protection of Existing Access

Coastal Act Section 30211 requires the protection of existing access where established by the legislature or by historic use. LCP Access Policy 1 and CZLUO Section 23.04.420(b) protect existing public access. Recreation Policy 1 states that coastal recreational and visitor-serving facilities shall be protected, encouraged, and where feasible provided by both public and private means. Recreation Policy 2 states that recreational development and commercial visitor-serving facilities shall have priority over non-coastal dependent use.

As described previously, steep bluff faces have inhibited the public’s ability to access the beach using the County owned easement at the Emmons Road street end. Instead, evidence suggests that use occurs on a dirt trail that crosses the property near the bluff edge then descends steeply down the bluff face. The proposed development of a single-family residence and associated improvements will place physical barriers (i.e. a landscaped berm along the bluff edge, plantings, walls, or fencing) on top of an existing network of trails, effectively blocking the public’s ability to reach the shoreline in this area. While the public would still be able to access the bluff edge by forming a new trail within the Emmons Street right-of-way, the project as proposed will interfere with the existing trail pattern onsite and will interfere with vertical access to the shoreline below. Most significantly, the proposed project would eliminate the approximately 15-foot long section of the existing trail that connects Emmons Street to trail down the bluff lying that falls within the applicant’s property.

While it is important to recognize existing access opportunities nearby (improved vertical access is provided 5 blocks (approximately 1000 feet) to the north on Wedgewood Street and 3 blocks (approximately 600 feet) to the south at Harvey Street), it is also important to evaluate their adequacy and effectiveness. As discussed, topographic features (large rock outcroppings and steep cliffs) limit the ability to access this beach area from other up coast access areas. Recent discussions with a neighbor¹ have indicated the improved access at Wedgewood Street to the north does not allow lateral access to this area during higher tides. It remains questionable whether or not this pocket beach can be accessed from the south at Harvey Street during higher tides. Irrespective of nearby formal accessways, the

¹ Personal communication with Doug Buckmaster (neighbor) 2/6/03



presence of well worn pathways on the property and down the bluff face indicates that the public has opted for this means of accessing the beach, rather than the improved accessways to the north and south.

There is some photographic evidence of historic use on this property. An aerial photo taken in 1986 shows the County owned street end (Emmons) as completely cleared of vegetation, along with some evidence of a trail crossing the applicant's property. Site photos taken by the applicant's geologist in July 2001 clearly show well-worn pathways across the property and down the bluff face at this location. September 2002 images included in the California Coastal Records Project also show clearly defined and well-worn paths across the property and down the bluff face to the shore. (See exhibit 5 for photos).

In addition to the photos, there is descriptive evidence of historic use on the property. In the geotechnical report submitted by the applicant, it states, "The upper portion of the bluff has eroded due to foot traffic on old and new paths down to the beach..." In addition, Doug Buckmaster, a long time neighbor and Chair of the Trails Committee of Cambria's Parks, Recreation and Open Space Committee (PROS), has submitted a letter supporting evidence of historic use on the site. He states, "The lot owned by the Korpiels has been used for *decades* (emphasis added) for bluff and beach access" (see Exhibit 6 for Correspondence). A comprehensive evaluation of public access in this area has not been done. The County has indicated it is in the process of working on a countywide coastal access plan.² A comprehensive review of historic uses, informal access, and potential prescriptive rights would be important to maximize protection of existing public access opportunities. In the meantime, it is important that this new development not prejudice future systematic planning to protect existing access and provide maximum access opportunities in the future.

Most recently, "No Trespassing" signs have been installed on the site. Photos taken by the County on February 10, 2003 show newly erected signs placed directly on the existing pathways. It appears that by placing the signs at this time and location, the property owner is attempting to prevent existing and future use from occurring. It is important to note that this action indicates the property owner currently recognizes public use of the site, lending further evidence to support that existing and historic uses exist.

Visual access to and along the coast is also considered a form of public access. As such, the Coastal Act policies 30210 and 30211 are also relevant. As described, the County owned street end is frequently used by the public and also allows visual access to the shoreline. Among other things, visual access to the shoreline provides the public with opportunities to enjoy scenic vistas, view marine life, or simply watch the sunset. The proposed development, through landscaping such as the installation of plantings, drainage control devices (i.e. vegetative berms), signs, fences, or walls, has the potential to interfere with visual access to and along the coast. It is important to ensure that the proposed landscaping elements do not interfere with the public's ability to visually access the shoreline in this location.

3. Public Access and Recreation Conclusion

As described above, the available evidence indicates that the public has historically used the project site to access the shoreline. As of the writing of this staff report, the public's right of access based on

² Personal communication with Jan DeLeo 2/5/03, San Luis Obispo County Parks Division.



historical use has not been formally established, and the Commission therefore lacks a basis for requiring a dedication of private property. Nevertheless, pursuant to Coastal Act Section 30211 and Section 23.04.020(b), the Commission must ensure that new development does not interfere with public rights of access that may exist.

Special Condition 4 of this permit therefore clarifies that the Commission's approval of this permit does not waive any public access rights that may exist on the site. In addition, Special Condition 5 requires setbacks and landscaping standards to ensure that the development does not interfere with public's existing ability to access to the shoreline, including visual access. Specifically, special Condition 5 establishes standards for fencing and landscaping that will protect views of the coast and preserve existing coastal access opportunities, among other ways by prohibiting new development that would obstruct the portion of the trail that connects Emmons Street with the trail down the bluff. In comparison to the other existing trails would be eliminated by the project, the protection of this section of trail is necessary to allow for continued access to the shoreline. In the event that an alternative route providing equal or better access opportunities is established within the Emmons Street right-of-way, the applicant could submit an application to amend this permit accordingly.

E. Hazards

1. Relevant Local Coastal Program Provisions

As required by Hazards Policy 1, new development is to be located and designed so that shoreline protective devices will not be needed for the life of the structure. It states:

Hazards Policy 1: New Development

All new development proposed within areas subject to natural hazards from geologic or flood conditions (including beach erosion) shall be located and designed to minimize risks to human life and property. Along the shoreline new development (with the exception of coastal-dependent uses or public recreation facilities) shall be designed so that shoreline protective devices (such as seawalls, cliff retaining walls, revetments, breakwaters, groins) that would substantially alter landforms or natural shoreline processes, will not be needed for the life of the structure. Construction of permanent structures on the beach shall be prohibited except for facilities necessary for public health and safety such as lifeguard towers.

Hazards Policy 4: Limitations on the Construction of Shoreline Structures.

Construction of shoreline structures that would substantially alter existing landforms shall be limited to projects necessary for:

- a. Protection of existing development (new development must ensure stability without depending upon shoreline protection devices); . . .*

Hazards Policy 6: Bluff Setbacks. *New development or expansion of existing uses on bluffs shall be designed and set back adequately to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of 75 years without*



construction of shoreline protection structures which would require substantial alterations to the natural landforms along bluffs and cliffs . . .

Coastal Zone Land Use Ordinance (CZLUO) Section 23.04.118: Blufftop Setbacks . . .

The required setback shall be the larger of the two required by subsections a. and b. of this section.

a. Stringline setback method: . . .

- (1) A line between the most seaward portions of the structures on the adjacent lots; or*
- (2) where there is substantial variation of land form between adjacent lots, the average setback of structures on the adjoining lots shall be used.*

b. Bluff retreat setback method: New development or expansion of existing uses on blufftops shall be designed and set back from the bluff edge a distance sufficient to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of 75 years without construction of shoreline protective structures that would in the opinion of the Planning Director require substantial alterations to the natural landforms along bluffs and cliffs. A site stability evaluation report shall be prepared and submitted by a certified engineering geologist . . . that indicates that the bluff setback is adequate to allow for bluff erosion over the 75-year period . . .

CZLUO Section 23.05.090: Shoreline Structures . . .

a. Where allowed: . . .

- (1) Protection of existing coastal development . . .*

2. Consistency Analysis

The San Luis Obispo County LCP allows shoreline structures only where necessary to protect existing development. It specifically prohibits new development that would require a seawall (Hazards Policy 1 and Coastal Zone Land Use Ordinance Section 23.05.090). The LCP further requires that new development be set back from ocean bluffs a distance that would provide for protection from erosion for a minimum of 75 years (LCP Hazards Policy 6). Setbacks are necessary to protect structures from erosion of the coastal bluff for the life of the structure. On a site that has a relatively low bluff (approximately 17 feet) as this site has, the bluff setback also provides protection from waves that may overtop the bluff.

As approved by the County, the development will be setback a distance of 25 feet from the top of the bluff. According to the erosion rates contained in the submitted geologic information, a setback of 25 feet will prevent the need for a seawall to be constructed over a 75-year period. Such a setback is necessary to achieve project compliance with Section 23.04.118b of the CZLUO. The report suggests a number of measures that could be taken on the blufftop to protect from erosion, including reducing foot traffic, minimizing irrigation near the bluff, diverting drainage towards the street, and planting deep-



rooted drought resistant vegetation near to the blufftop. However, the geotechnical report recommends in conclusion “the most effective means of controlling erosion on the bluff face would be some form of wave protection along the base of the bluff ...” (Cleath and Associates, 1/16/02).

Shoreline structures protect existing houses on both sides of the subject lot and on many of the other lots in the Marine Terrace neighborhood. Some of these may have been illegally constructed in response to the major winter storms of 1983.

3. Hazards Conclusion

LCP Hazards provisions seek to insure that new development will not require the installation of shoreline protection for the its economic life (in this case assumed to be 75 years) and, more broadly, to effectuate the Coastal Act section 30253 policy goal of avoiding shoreline protection construction for new development. As described above, the setback of 25 feet as proposed by the applicant appears to be adequate. However, given the inherent geologic uncertainty as well as significant risks associated with blufftop development, further assurance that no future shoreline protection will be required on this site is needed to meet the requirement of the LCP. In light of this fact, and the need to assure structural stability without future shoreline protection, this permit is conditioned to require the applicant to record a deed restriction that (1) addresses the assumption of risk from hazards associated with waves and erosion and that (2) prohibits construction of any shoreline protective device(s) for the purpose of protecting the development authorized by this permit. In addition, a number of specific design standards have been placed on blufftop landscaping to ensure bluff stability (Special Condition 5). These include setbacks, prohibitions on water intensive vegetation, and limitations of blufftop drainage.

Therefore, the Commission finds that the project, as conditioned, is consistent with the San Luis Obispo County certified Local Coastal Program with respect to coastal hazards.

6. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Coastal Commission’s review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has analyzed the environmental impacts posed by the project and identified changes to the project that are necessary to reduce such impact to an insignificant level. Based on these findings, which are incorporated by reference as if set forth herein in full, the Commission finds that only as modified and conditioned by this permit will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA.

